

FILED ONLINE VIA OSHA WEBSITE AT 2PM ON MARCH 26, 2021

<https://www.osha.gov/pls/osha7/eComplaintForm.html>

Establishment name: Foundation Food Group

Site Street: 2093 Industrial Dr, Gainesville, GA 30504

Site City: Gainesville

Site State: Georgia

Site Zip: 30504

Type of Business: Poultry Facility

Hazard Description:

Pursuant to 29 U.S.C. § 657(f)(1), **Informer's Privilege** **Informer's Privilege** submits this complaint on behalf of several current employees of the Foundation Food Group facility ("FFG") that experienced a nitrogen leak on January 28, 2021 and an ammonia leak on March 11, 2021, in Gainesville, Georgia.

On January 28, 2021, a preventable and deadly nitrogen leak took place at FFG, killing 6 workers and injuring many more. Workers continue to experience injuries and illnesses from this nitrogen leak including headaches, chest pain, anxiety, and trouble sleeping. Six weeks later, on March 11, 2021, another toxic leak took place at the same facility, this time an ammonia leak that caused workers to experience illnesses such as sore throat, nausea, and headaches. The ammonia leak further exacerbated illnesses workers had been experiencing since the nitrogen leak and several workers had to go home the day of the ammonia leak.

The hazards described in the facts below demonstrate that FFG has likely violated Process Safety Management Standards ("PSM") under 29 C.F.R. 1910.119 twice within the last six months at two different lines. During both leaks, workers heard no alarms when toxic gas – both nitrogen and ammonia-- was released into the air and all 130 workers were forced to exit through a single door due to a lack of sufficient emergency doors to ensure all workers can safely evacuate the facility. Further, these workers were provided with any trainings or drills on what to do in the event of a toxic release of gas.

FFG's failure to provide a sufficient number of emergency exits is likely a violation of 29 CFR 1910.36, which requires at least two exits for emergency use, and that these exits not be locked so workers can exit freely without using a key or other tool. The OSHA standard requiring at least two exits is one of the most fundamental and essential requirements of a safe and healthy working environment. FFG's failure to provide

sufficient exit doors is reminiscent of a tragedy that took place 30 years ago at another poultry facility in the South. In 1991, 25 workers died in a fire that broke out at a Imperial Food Products plant, a chicken processing facility in Hamlet, North Carolina. As is the case here with FFG, workers did not have access to a sufficient number of exit doors --- workers died as they attempted to open locked doors. 12 of the deceased workers were African American and 18 were women, many of whom were single mothers. 5 of the deceased workers at FFG were Latinx immigrants. The majority of employees at FFG are immigrants from Mexico and Central America who fled abuse, violence, and poverty. Like in Hamlet, many are women and single mothers. And, just like the workers who were killed in Hamlet, the workers in FFG are treated as if they are disposable.

Because these two leaks occurred within such a short period of time, workers fear for their safety, well-being, and their lives. Many workers feared that they would die during the ammonia leak just as their co-workers had six weeks prior. They fear that other lines and pieces of equipment will experience deadly and toxic leaks. They do not trust that FFG will keep them safe and keep them alive.

The incidents and conditions described below are such that workers believe they are in imminent danger of serious physical harm or death, as defined by 29 CFR 1908.2. Specifically, the conditions and practices at this particularly facility “are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the procedures set forth in §1908.6(e)(4), (f) (2) and (3), and (g).” Therefore, the workers request that OSHA exercise its authority under 29 USC 664 (a) and seek a petition in federal district court “to restrain any conditions or practices [at FFG] which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided”

OSHA must issue this petition so that a federal district court may require “such steps to be taken [at FFG] as may be necessary to avoid, correct, or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists... .” *Id.* The imminent dangers are as follows:

Ammonia Leak

1. For two or three days prior to the ammonia leak on Thursday March 11, 2021, workers could smell ammonia but the smell was not very strong. On Thursday March 11, 2021, around 9 am, the smell became much stronger and workers could smell it throughout the facility. Workers began complaining to one another and to supervisors about the strong odor. Some workers went ahead and left their workstations to get away from the smell while others stayed. The majority of

workers stayed. At some point, all workers were told to leave their work stations and go to the “comedor” or break room.

2. Workers who have worked at FFG for as long as five years have smelled ammonia before at this facility but it was never as strong as it was on March 11, 2021.
3. Some of the workers who were working on March 11, 2021 who inhaled ammonia were pregnant.
4. No alarm went off when the ammonia leak occurred.
5. Some workers went outside and even walked across the street to get away from the smell of ammonia. Workers were calling family and friends about the leak. Someone opened the door in the breakroom so that the ammonia would go outside.
6. One supervisor complained about chicken falling off one of the lines and asked the workers to return even when the smell was so strong. Some workers refused this request, stating that the smell was still too strong.
7. By 10 am, workers were told they could return to work. The majority of workers did return but 10-12 workers left, stating that the smell was too strong. However, the majority of the workers remained
8. The workers who left were scared that another leak occurred so soon after the deadly nitrogen leak that killed 6 of their co-workers. There is ongoing fear and anxiety that another hazard will take place that will cause serious injury, illness, or death.
9. There is only one exit door for 130 workers and this door does not lead directly to the outside. Rather workers use a door from the facility to the changing room, then another door from the change room to the break room, and finally from the break room to the outside.
10. There is a second exit door from the office to the outside but this door is not accessible to the workers and remains locked. Workers need a key to access this door.
11. The workers who remained at work said the smell of ammonia dissipated throughout the day as FFG opened windows and doors.
12. Workers have not received or participated in any emergency training or drills on what to do if an ammonia leak should occur. There has never been a training on what to do if they hear an alarm. There is no distinct alarm for ammonia and/or toxic chemical leaks.
13. Workers experienced symptoms like burning eyes, headaches, and sore throats. These symptoms continued into the week of March 15, 2021.
14. Workers were forced to stay until 7:30 on Friday March 12, 2021 to meet production requirements.

Nitrogen Leak

15. On Tuesday January 26, 2021, there was too much white smoke coming out of the mouth of the freezer on line 4. Workers could not see anything. Mechanics and other management went to take photographs of the freezer and had to wear lights to see.
16. The smoke made it very cold for workers working on line 4. Workers had to wear multiple layers of clothing and gloves to stay warm.
17. Workers reported feeling sick from exposure to smoke including chest pain on January 26, 2021 but have been denied medical appointments from FFG.
18. On January 28, 2021, some workers first learned about the nitrogen leak from a mechanic who was bleeding from the head. He was making signals with his hand to tell the workers to leave. Workers could tell this mechanic was psychologically traumatized from seeing his coworkers die as he was unable to speak, only motion with his hands that workers needed to leave.
19. Other workers only learned there was a problem through the screaming and running of their co-workers as they rushed to escape through the lone emergency exit.
20. There was only one exit door for the workers to use to exit the facility at the time of the nitrogen leak. This is the same door described above whereby workers walk from the facility through a door to a changing room, through another door to the break room and in the break room there is a door to go outside.
21. No alarm went off as the nitrogen leak was occurring and as workers were fleeing the building.
22. When they came outside the building, some of the workers fainted. One worker was bleeding from the eye. Workers were told that their coworkers had died. Workers wanted to go home but were not permitted to do so.
23. When workers came outside, a woman from human resources said to the workers "Don't talk to anyone, you don't know anything and you don't say anything." This woman said it in both English and Spanish.
24. Workers never received any emergency training or drills on nitrogen and what to do in the event of a nitrogen leak, even after this nitrogen leak occurred and they returned to work after January 28, 2021.
25. Since returning to work after the nitrogen leak on January 28, 2021, workers have not received any training.
26. Workers are still reporting symptoms and illnesses from the date of the nitrogen leak, including, but not limited to: eyes burning and itching, chest pain, headaches. Many workers are now unable to distinguish if these symptoms are from January or if they have been exacerbated from the March 11, 2021 nitrogen leak. They have also experienced psychological symptoms from the traumas of these events and deaths of their co-workers.

Imminent Danger at Line 1 Due Risk of Fire, Smoke and/or Air Contaminants, Distance from Exit Door, and Lack of Eye Protection

27. Line 1 has too much smoke from the oil cooking the chicken, causing significant eye pain to workers including eyes tearing up, blurred vision.
28. There is so much smoke from Line 1 that it can be seen coming off the roof of the building.
29. Workers at line 1 experience significant eye pain including eyes tearing up, burning, and blurred vision from the smoke.
30. Workers often have to use their clothes to wipe their eyes in order to see.
31. Workers have to walk away from this area to breathe fresher air or to a place where there is more ventilation, otherwise it is too much to bear.
32. FFG does not provide workers at Line 1 with eye protection from the smoke.
33. Workers fear that if there was a fire at Line 1, there would be no place to leave as there is only one exit door and they are far away from the exit door.
34. Similarly, workers at Line 1 had trouble quickly accessing the emergency exit door.
35. Line 1 often becomes too hot, especially during the summer.

The hazards described above are highly probative of violations of the following standards:

- 29 C.F.R. 1910.119, Process Safety Management (“PSM”).
 - The PSM standard sets forth “requirements for preventing or minimizing the consequences of catastrophic releases of toxic, reactive, flammable, or explosive chemicals. These releases may result in toxic, fire or explosion hazard.” Among other provisions within the standard, employers must “consult with employees and their representatives on the conduct and development of process hazards analyses and on the development of the other elements of process safety management in this standard.” 29 CFR 1910.119 (c)(2). Based on the foregoing facts, it appears that FFG has violated this standard as none of the employees who provided authorization for this complaint have gone through any such consultation regarding the conduct and development of process hazards analyses.
 - Additionally, the PSM standard requires employers to “establish and implement an emergency action plan for the entire plant in accordance with the provisions of 29 CFR 1910.38. The emergency action plan shall include procedures for handling small releases. 1910.119(n). As incorporated by reference, 29 CFR 1910.38(d) requires employers to “have and maintain an employee alarm system. The employee alarm system must use a distinctive signal for each purpose and comply with the

requirements in § 1910.165. 1910.38 further requires employers to “review the emergency action plan with each employee covered by the plan.”

1910.38(f). Here, there is no known emergency action plan in place and no alarm sounded in connection with the Ammonia Leak nor the Nitrogen Leak.

- Finally, the fact that two different lines experienced toxic and, in the case of the nitrogen leak, deadly, leaks in the matter of 6 weeks, is causing workers to question whether the employer is complying with “recognized and generally accepted good engineering practices” as required by various subsections of the PSM standard including, but not limited to 29 CFR 1910.119 (d)(3)(ii), (e)(4), (j)(4)(ii), (j)(4)(iii).
- The hazards described above are also highly probative of violations of 29 CFR 1910.36 (b)(1) which requires that there be at least 2 exit routes in a facility, 29 CFR 1910.36 (d)(1), which requires that exit doors remain unlocked, as well as 29 CFR 1910.36 (c)(1), which requires that “[e]ach exit discharge must lead directly outside or to a street, walkway, refuge area, public way, or open space with access to the outside.” As shown above, this facility has only one exit door and this door does not lead directly outside, rather workers have to walk through two different rooms to reach the outside of the facility. The additional exit door the plant has requires a key to open the door.
- Finally for workers at Line 1, the facts described above are highly probative of a violation of 29 CFR 1910.1000 given the high concentration of smoke in the air that causes eye burning. Further the facts above are highly probative of a violation of 29 CFR. 1910.133 (a)(1) as workers at Line 1 are not provided with necessary personal protective equipment including, but not limited to protective eye gear.
- Given the toxic release of nitrogen, ammonia, and smoke at FFG, OSHA should inquire as to whether FFG should be required to provide employees with necessary respiratory equipment pursuant to 29 CFR 1910.134 (a)(2).

The foregoing hazards constitute an imminent danger pursuant to 29 CFR 1908.2 and the undersigned employee representative, [REDACTED], on behalf of the current employees who have provided it with such authorization, requests that OSHA exercise its authority under 29 USC 664 (a) and seek a petition in district court to ensure that the following abatements are met before workers can be asked to work at *any* of the lines where toxic chemicals can leak. These abatements include, but are not limited to:

- a. Provide for more than one unlocked emergency exit door and ensure all workers have access to the exits as required by 29 CFR 1910.36 (b)(1);
- b. Ensure that exit doors are unlocked as required by 29 CFR 1910.36 (d) (1);
- c. Providing employees with a written plan of action regarding their participation in process hazard analyses pursuant to 29 CFR 1910.119 (c)(1). This written plan

must be made available in a language the workers can understand and must be written in a way that corresponds with their education and literacy levels.

- d. Conducting a process hazard analyses on all pieces of equipment that could release toxic chemicals and/or gas such as nitrogen or ammonia, pursuant to 29 CFR 1910.119 (e)(1).
- e. The foregoing process hazard analyses shall be conducted in compliance with 29 CFR 1910.119 (e)(4) where by the analyses are “performed by a team with expertise in engineering and process operations, and the team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used.”
- f. Providing employees with process hazard analyses on pursuant to 29 CFR 1910.119 (c)(3) in a language they can understand in and written in such a way that corresponds with their education and literacy levels.
- g. Once the process hazard analyses are completed, the employer must “shall establish a system to promptly address the team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions” in compliance with 29 CFR 119 (e)(5).
- h. Requiring FFG to develop and implement an emergency action plan for unplanned releases of toxic chemicals as required by 29 CFR 1910.38. This plan must be written in a language that workers can understand and be understandable based on the literacy levels of workers;
- i. Train workers on the emergency action plan in a language they can understand under 29 CFR 1910.28 (e);
- j. Ensure that exit doors exit directly to the outside as required by 29 CFR 1910.36(c)(1);
- k. Install an alarm and/or fix any current alarms to ensure that they go off when any release of toxic chemicals occur as required by 29 CFR 1910.38(d); and
- l. Provide employees with necessary personal protective equipment and respirators pursuant to 29 CFR. 1910.133 (a)(1) and 29 CFR 1910.134 (a)(2).

Hazard Location:

The Ammonia Leak and Nitrogen Leak impacted the entire Plant and exposed workers throughout the Plant. Air contaminants, risk of fire, and lack of necessary eye protection

occur at Line 1. The violations of the lack of required emergency exits impact everyone in the plant. The need for emergency plan impacts everyone in the plant. The need for alarms impacts everyone in the plant. The need for process hazard analyses impacts everyone in the plant.

Condition Brought to the Attention of:

Employer

I am: Employee Representative

Do NOT reveal my name to the employer

Complainant Name: [Informer's Privilege]

Electronic Signature Provided

Complainant Telephone Number: [Informer's Privilege]

Complainant Mailing Address: [Informer's Privilege]
[Informer's Privilege]

Organization Name: [Informer's Privilege]

Title: [Informer's Privilege]